

Official Journal

of the European Union

L 153

English edition

Legislation

Volume 51

12 June 2008

Contents

I Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory

REGULATIONS

- ★ **Council Regulation (EC) No 521/2008 of 30 May 2008 setting up the Fuel Cells and Hydrogen Joint Undertaking ⁽¹⁾** 1
- Commission Regulation (EC) No 522/2008 of 11 June 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables 21
- ★ **Commission Regulation (EC) No 523/2008 of 11 June 2008 amending Annexes VIII, X and XI to Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the import of blood products for the manufacture of technical products ⁽¹⁾** 23
- ★ **Commission Regulation (EC) No 524/2008 of 11 June 2008 amending Regulation (EC) No 1623/2000 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999, with regard to the time limit for using wine alcohol awarded for new industrial uses** 33

II Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory

DECISIONS

Council

2008/434/EC:

- ★ **Council Decision of 6 June 2008 appointing an Italian member of the Committee of the Regions** 34

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

2008/435/EC:

★ Council Decision of 6 June 2008 appointing two French members of the Committee of the Regions	35
---	----

2008/436/EC:

★ Council Decision of 9 June 2008 appointing and replacing members of the Governing Board of the European Centre for the Development of Vocational Training	36
---	----

Commission

2008/437/EC:

★ Commission Decision of 11 June 2008 amending Decision 2006/109/EC accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of certain castings originating in the People’s Republic of China	37
--	----

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 521/2008

of 30 May 2008

setting up the Fuel Cells and Hydrogen Joint Undertaking

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 171 and 172 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Whereas:

(1) Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) ⁽¹⁾ (hereinafter referred to as the Seventh Framework Programme), provides for a Community contribution for the establishment of long term public-private partnerships in the form of Joint Technology Initiatives (hereinafter referred to as JTI) which could be implemented through Joint Undertakings within the meaning of Article 171 of the Treaty. These JTI were established as a result of the work of European Technology Platforms, already set up under the Sixth Framework Programme, and cover selected aspects of research in their field. They should combine private-sector investment and European public funding, including funding from the Seventh Framework Programme.

(2) Council Decision 2006/971/EC of 19 December 2006 concerning the Specific Programme 'Cooperation' implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) ⁽²⁾, underlines the need for ambitious pan-European public-private partnerships to accelerate the development of major technologies and large research actions at Community level including, in particular, JTI.

(3) The Lisbon Growth and Jobs Agenda underscores the need to develop favourable conditions for investment in knowledge and innovation in the Community to boost competitiveness, growth and jobs.

(4) In March 2007 the European Council concluded that Member States were determined to promote eco-innovations through an ambitious approach, taking full advantage of lead markets in areas such as sustainable and safe low carbon technologies, renewable energies and energy and resource efficiency; it recognised the need to strengthen energy research in particular to accelerate the competitiveness of sustainable energies, notably renewables, and low carbon technologies and the further development of energy efficiency technologies.

(5) In its conclusions of 3 March 2003, of 22 September 2003 and of 24 September 2004, the Council highlighted the importance of further developing actions following the 3 % Action Plan for research and the innovation policy, including the development of new initiatives aimed at intensifying cooperation between industry and the public sector in funding research to enhance trans-national public-private links.

⁽¹⁾ OJ L 412, 30.12.2006, p. 1.

⁽²⁾ OJ L 400, 30.12.2006, p. 86, as corrected by OJ L 54, 22.2.2007, p. 30.

- (6) In November 2003 the European Council adopted a European Initiative for Growth. This Initiative, in the Quick-start Programme, includes a Project Area 'Hydrogen economy' with a total amount of EUR 2 800 million between 2004 and 2015 and possible funding from the Research, Technological development and Demonstration (hereinafter referred to as 'RTD') Framework Programmes and the Structural Funds.
- (7) In May 2003 a Hydrogen and Fuel Cell High Level Group presented a vision report on 'Hydrogen Energy and Fuel Cells — a vision of our future', recommending, *inter alia*, the formation of a fuel cell and hydrogen technology partnership and a substantially increased RTD budget, as well as a demonstration and pilot programme to extend the technology validation exercises into the market development arena.
- (8) In December 2003, the Commission facilitated the creation of the European Hydrogen and Fuel Cell Technology Platform (hereinafter referred to as EHFC TP), bringing together all interested stakeholders in a joint effort to move towards achieving the High Level Group's vision. In March 2005, the said Technology Platform adopted a Strategic Research Agenda and Deployment Strategy, aimed at accelerating the development and market introduction of fuel cell and hydrogen technologies in the Community.
- (9) The technology challenge facing fuel cells and hydrogen is of great complexity and scale and the dispersion of technical competencies is very high. Therefore, in order to achieve critical mass in terms of scale of activity, excellence, and potential for innovation, this challenge needs to be tackled in a focused and coherent way at EU level. This, and its potential contribution to Community policies, in particular energy, environment, transport, sustainable development and economic growth, calls for the JTI approach in this sector.
- (10) The objective of the JTI on 'Fuel Cells and Hydrogen' is to implement a programme of RTD activities in Europe in the fields of fuel cells and hydrogen. These should be carried out, building on the EHFC TP, with the cooperation and involvement of stakeholders from industry including small and medium-sized enterprises (hereinafter referred to as SMEs), research centres, universities, and regions.
- (11) Significant breakthroughs in a number of fields are needed in order for fuel cell and hydrogen technologies to be effectively deployed. Proper emphasis should be put on long-term research, taking into account advice provided by the advisory bodies of the Fuel Cells and Hydrogen Joint Undertaking (hereinafter the FCH Joint Undertaking).
- (12) Taking into account the public-private partnership involving major stakeholders and its long term activity, the generated socioeconomic benefits for European citizens, the pooling of financial resources and co-financing in the field of fuel cells and hydrogen RTD activity provided by the Commission and industry, the high scientific and technical expertise required, and the input of industrial property rights, it is vital to set up a FCH Joint Undertaking under Article 171 of the Treaty. This legal entity should ensure the coordinated use and efficient management of the funds assigned to the JTI on 'Fuel Cells and Hydrogen'. To ensure the appropriate management of activities initiated but not concluded during the Seventh Framework Programme the FCH Joint Undertaking should be set up for a period up to 31 December 2017.
- (13) The objectives of the FCH Joint Undertaking should be pursued by pooling resources from the public and private sectors to support RTD activities with a view to increase the overall efficiency of European research efforts and accelerate the development and deployment of fuel cell and hydrogen technologies. To that end, the FCH Joint Undertaking should be able to organise competitive calls for proposals for projects to implement the RTD activities. Research activities should respect fundamental and ethical principles applicable to the Seventh Framework Programme.
- (14) The founding members of the FCH Joint Undertaking should be the Community represented by the Commission as public representative and the European Fuel Cell and Hydrogen Joint Technology Initiative Industry Grouping (hereinafter referred to as the 'Industry Grouping'), which represents the interests of industry and is open to private companies. A Research Grouping may become a member of the FCH Joint Undertaking.
- (15) The running costs of the FCH Joint Undertaking should be covered equally in cash by the Community and the Industry Grouping from the outset. If the Research Grouping is established it should also contribute to the running costs.

- (16) The operational costs should be funded by the Community, industry and other public and private legal entities participating in the activities. Further financing options may be available, *inter alia*, from the European Investment Bank, in particular through the Risk-Sharing Finance Facility developed jointly with the European Investment Bank and the Commission pursuant to Annex III to Decision 2006/971/EC.
- (17) According to the Seventh Framework Programme and Council Decision 2006/975/EC of 19 December 2006 concerning the Specific Programme to be carried out by means of direct actions by the Joint Research Centre under the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013) ⁽¹⁾, the Joint Research Centre may participate in joint technology initiatives where relevant. The Joint Research Centre has specific expertise in the fields of fuel cells and hydrogen, and therefore, it is appropriate to clarify that its possible contribution to joint technology initiatives is not intended to form part of the Community contribution foreseen in the legal acts setting up the joint technology initiatives.
- (18) The FCH Joint Undertaking should be a body set up by the Community and discharge for the implementation of its budget should be given by the European Parliament, on the recommendation of the Council. However, account should be taken of the specificities resulting from the nature of JTI as a public-private partnership and in particular from the private-sector contribution to the budget.
- (19) The FCH Joint Undertaking should adopt, in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ and subject to prior consent with the Commission, specific financial rules which take into account its specific operating needs arising, in particular, from the need to combine Community and private funding to support RTD activities in an efficient and timely manner. In order to ensure a harmonised treatment between the participants of the FCH Joint Undertaking research activities and those of the indirect actions of the Seventh Framework Programme, it is appropriate that value added tax should not be an eligible cost for Community funding, in line with Regulation (EC) No 1906/2006 of the European Parliament and of the Council of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013) ⁽³⁾.
- (20) The rules for the organisation and operation of the FCH Joint Undertaking should be laid down in the Statutes of the FCH Joint Undertaking as part of this Regulation.
- (21) The intellectual property rights policy of the FCH Joint Undertaking should provide for rights ownership for the participants of the projects as the owners of the industrial property created through the FCH Joint Technology Initiative, and should enable its proper exploitation.
- (22) Appropriate measures should be taken to prevent irregularities and fraud and the necessary steps should be taken to recover funds lost, wrongly paid or incorrectly used in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽⁴⁾, Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽⁵⁾, and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations concluded by the European Anti-Fraud Office (OLAF) ⁽⁶⁾.
- (23) As a body endowed with legal personality, the FCH Joint Undertaking should be accountable for its actions. Where relevant, the Court of Justice of the European Communities should be competent for resolution of disputes arising from the activities of the FCH Joint Undertaking.
- (24) Since the objective of this Regulation, namely the establishment of the FCH Joint Undertaking, cannot be sufficiently achieved by the Member States due to the transnational nature and magnitude of the research challenges identified, which requires the pooling of complementary knowledge and financial resources across sectors and borders and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective,

⁽¹⁾ OJ L 400, 30.12.2006, p. 368, as corrected by OJ L 54, 22.2.2007, p. 126.

⁽²⁾ OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

⁽³⁾ OJ L 391, 30.12.2006, p. 1.

⁽⁴⁾ OJ L 312, 23.12.1995, p. 1. Regulation as last amended by Commission Regulation (EC) No 1233/2007 (OJ L 279, 23.10.2007, p. 10).

⁽⁵⁾ OJ L 292, 15.11.1996, p. 2.

⁽⁶⁾ OJ L 136, 31.5.1999, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Establishment

1. For the implementation of the Joint Technology Initiative (hereinafter referred to as JTI) on Fuel Cells and Hydrogen, a Joint Undertaking within the meaning of Article 171 of the Treaty (hereinafter referred to as the FCH Joint Undertaking) is hereby set up for a period up to 31 December 2017.

2. The seat of the FCH Joint Undertaking shall be located in Brussels, Belgium.

Article 2

Objectives

1. The FCH Joint Undertaking shall contribute to the implementation of the Seventh Framework Programme and in particular the Specific Programme 'Cooperation' themes for 'Energy', 'Nanosciences, Nanotechnologies, Materials and New Production Technologies', 'Environment (including Climate Change)', and 'Transport (including Aeronautics)'.

2. It shall, in particular:

- (a) aim at placing Europe at the forefront of fuel cell and hydrogen technologies worldwide and at enabling the market breakthrough of fuel cell and hydrogen technologies, thereby allowing commercial market forces to drive the substantial potential public benefits;
- (b) support Research, Technological development and Demonstration (hereinafter referred to as RTD) in the Member States and countries associated with the Seventh Framework Programme (hereinafter referred as Associated countries) in a coordinated manner to overcome the market failure and focus on developing market applications and thereby facilitate additional industrial efforts towards a rapid deployment of fuel cells and hydrogen technologies;
- (c) support the implementation of the RTD priorities of the JTI on Fuel Cells and Hydrogen, notably by awarding grants following competitive calls for proposals;
- (d) aim to encourage increased public and private research investment in fuel cells and hydrogen technologies in the Member States and Associated countries.

Article 3

Legal status

The FCH Joint Undertaking shall be a Community body and shall have legal personality. In each of the Member States of the European Community, it shall enjoy the most extensive legal

capacity accorded to legal persons under the laws of those States. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

Article 4

Statutes

The Statutes of the FCH Joint Undertaking, as set out in the Annex hereto, constitute an integral part of this Regulation and are hereby adopted.

Article 5

Community contribution

1. The maximum Community contribution to the FCH Joint Undertaking covering running costs and operational costs shall be EUR 470 million. The contribution shall be paid from the appropriations in the general budget of the European Union allocated to the 'Energy', 'Nanosciences, Nanotechnologies, Materials and New Production Technologies', 'Environment (including Climate Change)', and 'Transport (including Aeronautics)' themes of the Specific Programme 'Cooperation' implementing the Seventh Framework Programme according to the provisions of Article 54(2)(b) of Regulation (EC, Euratom) No 1605/2002.

2. The arrangements for the Community financial contribution shall be established by means of a general financing agreement and annual financing agreements to be concluded between the Commission, on behalf of the Community, and the FCH Joint Undertaking.

3. The Community contribution to the FCH Joint Undertaking used to fund projects shall be allocated following open and competitive calls for proposals and evaluation with the assistance of independent experts.

4. Any possible financial or in-kind contribution from the Joint Research Centre to the FCH Joint Undertaking shall not be considered as part of the Community contribution referred to in paragraph 1.

Article 6

Financial rules

1. The FCH Joint Undertaking shall adopt specific financial rules in accordance with Article 185(1) of Regulation (EC, Euratom) No 1605/2002. They may depart from the rules laid down in Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of the Financial Regulation⁽¹⁾ where the specific operating needs of the FCH Joint Undertaking so require and subject to prior consent of the Commission.

⁽¹⁾ OJ L 357, 31.12.2002, p. 72.

2. The FCH Joint Undertaking shall have its own internal audit capability.

Article 7

Staff

1. The Staff Regulations of Officials of the European Communities, the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the institutions of the European Community for the purpose of applying these Staff Regulations and Conditions of Employment shall apply to the staff of the FCH Joint Undertaking and its Executive Director.

2. Without prejudice to paragraph 3 of this Article and Article 6(3) of the Statutes, the FCH Joint Undertaking shall exercise the powers conferred on the appointing authority by the Staff Regulations of Officials of the European Communities and on the authority empowered to conclude contracts by the Conditions of Employment of Other Servants of the European Communities in respect of its staff.

3. The Governing Board shall, in agreement with the Commission, adopt the necessary implementing measures referred to in Article 110 of the Staff Regulations of Officials of the European Communities, and the Conditions of Employment of Other Servants of the European Communities.

4. The staff resources shall be determined in the establishment plan of the FCH Joint Undertaking that will be set out in its annual budget.

5. The staff of the FCH Joint Undertaking shall consist of temporary agents and contract agents engaged for a fixed period that may be renewed no more than once for a fixed period. The total period of engagement shall not exceed seven years and shall not in any case exceed the lifetime of the Joint Undertaking.

6. All cost related to the staff shall be borne by the FCH Joint Undertaking.

Article 8

Privileges and Immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the FCH Joint Undertaking and its staff.

Article 9

Liability

1. The contractual liability of the FCH Joint Undertaking shall be governed by the relevant contractual provisions and by the law applicable to the agreement or contract in question.

2. In the case of non-contractual liability, the FCH Joint Undertaking shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its staff in the performance of their duties.

3. Any payment by the FCH Joint Undertaking in respect of the liability referred to in paragraphs 1 and 2 and the costs and expenses incurred in connection therewith shall be considered as expenditure of the FCH Joint Undertaking and shall be covered by the resources of the FCH Joint Undertaking.

4. The FCH Joint Undertaking shall be solely responsible for meeting its obligations.

Article 10

Jurisdiction of the Court of Justice and applicable law

1. The Court of Justice shall have jurisdiction:

(a) in any dispute between the members which relates to the subject matter of this Regulation and the Statutes referred to in Article 4;

(b) pursuant to any arbitration clause contained in agreements or contracts concluded by the FCH Joint Undertaking;

(c) in actions brought against the FCH Joint Undertaking, including decisions of its bodies, under the conditions provided for in Articles 230 and 232 of the Treaty;

(d) in disputes relating to compensation for damage caused by the staff of the FCH Joint Undertaking in the performance of their duties.

2. For any matter not covered by this Regulation or by other acts of Community law, the law of the State where the seat of the FCH Joint Undertaking is located shall apply.

Article 11

Report, evaluation and discharge

1. The Commission shall present to the European Parliament and to the Council an annual report on the progress achieved by the FCH Joint Undertaking. This report shall contain details of implementation including number of proposals submitted, number of proposals selected for funding, type of participants, including SMEs, and country statistics.

2. By 30 May 2011, but in any case no later than 30 June 2011, as well as by 31 December 2013, the Commission shall conduct an interim evaluation of the FCH Joint Undertaking with the assistance of independent experts, on the basis of the terms of reference established after consultation of the FCH Joint Undertaking. These evaluations shall cover the quality and efficiency of the FCH Joint Undertaking and progress towards its objectives. The Commission shall communicate the conclusions thereof, accompanied by its observations and, where appropriate, proposals to amend this Regulation, including the possible early termination of the Joint Undertaking, to the European Parliament and to the Council.

3. No later than six months after the winding-up of the Joint Undertaking, the Commission shall conduct a final evaluation of the FCH Joint Undertaking with the assistance of independent experts. The results of the final evaluation shall be presented to the European Parliament and to the Council.

4. Discharge for the implementation of the budget of the FCH Joint Undertaking shall be given by the European Parliament, upon recommendation of the Council, in accordance with a procedure provided for by the financial rules of the FCH Joint Undertaking.

Article 12

Protection of the financial interests of the members and anti-fraud measures

1. The FCH Joint Undertaking shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls.

2. In case of irregularities committed by the FCH Joint Undertaking or its staff, the members of the FCH Joint Undertaking shall reserve the right to recover any amount unduly spent, including by a reduction or suspension of subsequent contributions to the FCH Joint Undertaking.

3. For the purposes of combating fraud, corruption and any other illegal activities, Regulation (EC) No 1073/1999 shall apply.

4. The FCH Joint Undertaking shall carry out on-the-spot checks and financial audits among the recipients of the FCH Joint Undertaking's public funding.

5. The Commission and/or the Court of Auditors may, as necessary, carry out on-the-spot checks among the recipients of the FCH Joint Undertaking's funding and the agents responsible for its allocation. To that end, the FCH Joint Undertaking shall ensure that grant agreements and contracts provide for the right of the Commission and/or the Court of Auditors to carry out,

on behalf of the FCH Joint Undertaking, the appropriate controls and, in the event of the detection of irregularities, to impose dissuasive and proportionate penalties.

6. The European Anti-Fraud Office (hereinafter referred to as OLAF) set up by Commission Decision 1999/352/EC, ECSC, Euratom ⁽¹⁾ shall enjoy the same powers in respect of the FCH Joint Undertaking and its staff as it enjoys in respect of Commission departments. As soon as the FCH Joint Undertaking is established, it shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council and the Commission concerning internal investigations by OLAF ⁽²⁾. The FCH Joint Undertaking shall adopt the necessary measures needed to facilitate internal investigations conducted by OLAF.

Article 13

Confidentiality

Without prejudice to Article 14, the FCH Joint Undertaking shall ensure the protection of sensitive information whose disclosure could damage the interests of its members or of participants in the activities of the FCH Joint Undertaking.

Article 14

Transparency

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding access to European Parliament, Council and Commission documents ⁽³⁾, shall apply to documents held by the FCH Joint Undertaking.

2. The FCH Joint Undertaking shall adopt the practical arrangements for implementing Regulation (EC) No 1049/2001 by 15 December 2008.

3. Decisions taken by the FCH Joint Undertaking pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice, under the conditions laid down in Articles 195 and 230 of the Treaty respectively.

Article 15

Intellectual property

The FCH Joint Undertaking shall adopt distinct rules governing the protection, use and dissemination of research results based on the principles of Regulation (EC) No 1906/2006 (hereinafter referred to as the Rules of Participation of the Seventh Framework Programme), as referred to in Article 25 of the Statutes which ensure that, where appropriate, intellectual property generated in RTD activities under this Regulation is protected, and that research results are used and disseminated.

⁽¹⁾ OJ L 136, 31.5.1999, p. 20.

⁽²⁾ OJ L 136, 31.5.1999, p. 15.

⁽³⁾ OJ L 145, 31.5.2001, p. 43.

*Article 16***Preparatory actions**

1. The Commission shall be responsible for the establishment and initial operation of the FCH Joint Undertaking until the Joint Undertaking has the operational capacity to implement its own budget. The Commission shall carry out, in accordance with Community law, all necessary actions in collaboration with its members and the involvement of the competent bodies.

2. For that purpose, until such time as the Executive Director takes up his/her duties following his/her appointment by the Governing Board in accordance with Article 6(4) of the Statutes, the Commission may assign a limited number of its officials, including one to fulfil the functions of the Executive Director, on an interim basis.

3. The interim Executive Director may authorise all payments covered by the credits provided in the budget of the FCH Joint Undertaking once approved by the Governing Board and may

conclude contracts, including staff contracts following the adoption of the FCH Joint Undertaking establishment plan. The Commission authorising officer may authorise all payments covered by the credits provided in the general budget of the FCH Joint Undertaking.

*Article 17***Support from the host State**

A host agreement shall be concluded between the FCH Joint Undertaking and Belgium concerning office accommodation, privileges and immunities and other support to be provided by Belgium to the FCH Joint Undertaking.

*Article 18***Entry into force**

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 May 2008.

For the Council

The President

A. VIZJAK

ANNEX

STATUTES OF THE FUEL CELLS AND HYDROGEN JOINT UNDERTAKING

Article 1

Main tasks and activities

The main tasks and activities of the FCH Joint Undertaking shall be the following:

- (a) to ensure the establishment and the efficient management of the Joint Technology Initiative on Fuel Cells and Hydrogen;
- (b) to reach the critical mass of research effort to give confidence to industry, public and private investors, decision-makers and other stakeholders to embark on a long-term programme;
- (c) to leverage further industrial, national and regional RTD investment;
- (d) to integrate RTD, and focus on achieving long-term sustainability and industrial competitiveness targets for cost, performance and durability and overcome critical technology bottlenecks;
- (e) to stimulate innovation and the emergence of new value chains including SMEs;
- (f) to facilitate the interaction between industry, universities and research centres including on basic research;
- (g) to promote the involvement of SMEs in its activities, in line with the objectives of the Seventh Framework Programme;
- (h) to encourage the participation of institutions from all Member States and Associated countries;
- (i) to perform broadly-conceived socio-techno-economic research to assess and monitor technological progress and non-technical barriers to market entry;
- (j) to perform research to support the development of new, and review existing regulations and standards to eliminate artificial barriers to market entry and support interchangeability, inter-operability, cross-border hydrogen trading, and export markets whilst ensuring safe operation and not inhibiting innovation;
- (k) to undertake communication and dissemination activities, and to provide reliable information to improve the public awareness and create public acceptance concerning hydrogen safety, and the benefits from the new technologies to the environment, security of supply, energy costs, and employment;
- (l) to establish and implement a Multiannual Implementation Plan;
- (m) to commit the Community funding and mobilise the private-sector and other public-sector resources needed to implement its RTD activities;
- (n) to ensure the sound operation of the RTD activities and sound financial management of the resources;
- (o) to communicate and disseminate information on the projects, including the names of the participants, the results from the RTD activities, and the amount of the financial contribution from the FCH Joint Undertaking;
- (p) to notify the legal entities that have concluded a Grant Agreement with the FCH Joint Undertaking of the potential borrowing opportunities from the European Investment Bank, in particular the Risk Sharing Finance Facility set up under the Seventh Framework Programme;

- (q) to ensure a high level of transparency and fair competition under equal access conditions for all applicants to the RTD activities of the FCH Joint Undertaking, whether or not they are members of the Research Grouping or the Industry Grouping, (in particular SMEs);
- (r) to follow the international developments in the area and engage in international cooperation when appropriate;
- (s) to develop close cooperation and ensure coordination with the Research Framework Programme and other European, national and trans-national activities, bodies and stakeholders;
- (t) to monitor progress toward the objectives of the FCH Joint Undertaking;
- (u) to carry out any other activity needed to achieve the objectives referred to in Article 2 of this Regulation.

Article 2

Members

1. The founding members (hereinafter referred to as the founding members) of the FCH Joint Undertaking shall be:

- (a) the Community, represented by the Commission, and
- (b) upon acceptance of these Statutes, the European Fuel Cell and Hydrogen Joint Technology Initiative Industry Grouping Aisbl, a non-profit organisation established under Belgian law (registration number: 890025478, with its permanent office in Brussels, Belgium) whose purpose is to contribute to achieving the objectives of the FCH Joint Undertaking (hereinafter referred to as the Industry Grouping).

2. The Industry Grouping shall:

- ensure that its contribution to the resources of the FCH Joint Undertaking, according to Article 12 of these Statutes is provided in advance as a cash contribution to cover 50 % of the running costs of the FCH Joint Undertaking and transferred to the budget of the FCH Joint Undertaking before the start of each financial year,
- ensure that industry's contribution to the achievement of the RTD activities funded by the FCH Joint Undertaking at least matches the Community contribution,
- be open to membership, on fair conditions, by any private legal entity (including SMEs), formed in accordance with the law of a Member State or Associated country and having its registered office, central administration or principal place of business within the above area, provided it is active in the field of fuel cells and hydrogen in Europe, and is committed to contribute to the objectives and resources of the FCH Joint Undertaking.

3. A Research Grouping may become a member, after the establishment of the FCH Joint Undertaking, provided it has accepted these Statutes.

The Research Grouping shall:

- be open to membership, on fair conditions, to any research organisation including universities and research centres established in a Member State or an Associated country excluding those representing the interests of industry or those set up by a company for the sole purpose of undertaking research for this company,
- be a non-profit organisation whose purpose is to contribute to achieving the objectives of the FCH Joint Undertaking,
- be legally established under Belgian law and operate under its registered by-laws duly adopted to pertain to the JTI,
- ensure that its contribution to the resources of the FCH Joint Undertaking is provided in advance as a cash contribution to cover 1/12 of the running costs of the FCH Joint Undertaking and transferred to the budget of the FCH Joint Undertaking before the start of each financial year.

*Article 3***Accession and changes to membership**

1. Possible membership application by the Research Grouping to the FCH Joint Undertaking shall be addressed to the Governing Board for its approval.
2. Decisions of the Governing Board on accession of the Research Grouping shall be made taking into account the relevance and potential added value of the Research Grouping for the achievement of the objectives of the FCH Joint Undertaking. The Commission shall provide timely information to the Council on the assessment and, where applicable, on the decision of the Governing Board.
3. Membership of the FCH Joint Undertaking may not be transferred to a third party unless the prior agreement of the Governing Board is given.
4. A founding member may terminate its membership of the FCH Joint Undertaking. The FCH Joint Undertaking shall then be wound up as provided for in Article 27.
5. The Research Grouping may terminate its membership of the FCH Joint Undertaking. The termination shall become effective and irrevocable six months after notification to the founding members following which the leaving member shall be discharged from any obligations other than those approved by the FCH Joint Undertaking prior to the membership termination.
6. The founding members and the Research Grouping, if it becomes a member, are hereinafter referred to as 'members'.

*Article 4***Bodies**

1. The bodies of the FCH Joint Undertaking shall be:
 - (a) the Governing Board;
 - (b) the Executive Director;
 - (c) the Scientific Committee.
2. In case a specific task is not assigned to one of the bodies, the Governing Board shall be the competent one.
3. The FCH States Representatives Group and the Stakeholders General Assembly shall be external advisory bodies to the FCH Joint Undertaking.

*Article 5***Governing Board**

1. Composition and decision-making process:
 - (a) the Governing Board shall be composed of six representatives of the Industry Grouping and of six representatives of the Commission;
 - (b) the Commission shall, in case the Research Grouping is established, transfer one seat to its representative;
 - (c) each seat in the Governing Board gives one voting right. The vote of the Commission shall be indivisible. The members shall use their best efforts to achieve consensus. Failing consensus, the Governing Board shall take its decisions by a three-quarters majority;
 - (d) at least one of the representatives appointed by the Industry Grouping shall represent SMEs;
 - (e) the Governing Board shall elect its chairperson. The chairperson shall be elected for two years;
 - (f) the chairperson shall convene the Stakeholders' General Assembly;

- (g) the Secretary of the Governing Board shall be the Executive Director. The Executive Director shall take part in the deliberations, but shall have no voting rights;
- (h) the representatives of the members shall not be personally liable for actions undertaken in their capacity as representatives on the Governing Board;
- (i) the Governing Board shall adopt its rules of procedure in accordance with paragraph 3.

2. Roles and tasks

The Governing Board shall have overall responsibility for the operations of the FCH Joint Undertaking and shall oversee the implementation of its activities.

The Governing Board shall in particular:

- (a) assess applications and decide changes in membership in accordance with Article 3;
- (b) decide on the termination of the membership in the FCH Joint Undertaking of any member which does not fulfil its obligations;
- (c) approve the annual and multiannual implementation plans and the corresponding expenditure estimates, as proposed by the Executive Director after having consulted the FCH States Representatives Group and the Scientific Committee;
- (d) approve the annual budget, including the staff establishment plan;
- (e) approve the annual activity report, including the corresponding expenditure;
- (f) approve the annual accounts and the balance-sheet;
- (g) arrange for the establishment of the internal audit capabilities of the FCH Joint Undertaking;
- (h) adopt the financial rules of the FCH Joint Undertaking in accordance with Article 6 of this Regulation;
- (i) approve the initiatives to amend these Statutes in accordance with Article 26;
- (j) appoint, dismiss or replace the Executive Director, provide guidance to the Executive Director and monitor the Executive Director's performance;
- (k) approve the organisational structure of the Programme Office as proposed by the Executive Director;
- (l) approve the methodology for assessing the in-kind contributions in accordance with the principles referred to in Article 12;
- (m) approve the guidelines on evaluation and selection of project proposals as proposed by the Executive Director;
- (n) approve the list of project proposals selected for funding;
- (o) approve the model grant agreement;
- (p) approve service and supply contracts;
- (q) approve the annual independent assessment of the level of in-kind contribution before it is presented to the Commission;

- (r) assign any task which is not specifically allocated to one of the bodies of the FCH Joint Undertaking;
- (s) approve procedures of the FCH Joint Undertaking, including the rules on the Intellectual Property Rights in line with Article 25;
- (t) adopt practical arrangements for implementing Regulation (EC) No 1049/2001 as referred to in Article 14 of this Regulation;
- (u) approve the calls for proposals;
- (v) supervise the overall activities of the FCH Joint Undertaking.

3. Rules of procedure

- (a) The Governing Board shall hold its ordinary meeting twice a year. It may hold any extraordinary meeting at the request of the Commission or a majority of the representatives of the Industry Grouping or at the request of the chairperson. The meetings shall normally take place at the Seat of the FCH Joint Undertaking. The meetings of the Governing Board shall be convened by its Chairperson.
- (b) The Chairperson of the FCH States Representatives Group shall have the right to attend meetings of the Governing Board as an observer.
- (c) The Governing Board may invite observers on a case-by-case basis, without voting rights, to attend their meetings, in particular representatives of the regions and of regulatory bodies.

Article 6

Executive Director

1. The Executive Director shall be the chief executive responsible for the day-to-day management of the FCH Joint Undertaking in accordance with the decisions of the Governing Board. In that context, he/she shall regularly inform as well as respond to any specific ad hoc requests for information from the Governing Board and the Scientific Committee.
2. The Executive Director shall be the legal representative of the FCH Joint Undertaking. He/she shall perform his/her tasks with independence, and shall be accountable to the Governing Board.
3. The Executive Director shall exercise, in respect of the staff, the powers laid down in Article 7(2) of this Regulation.
4. The Executive Director shall be appointed by the Governing Board for a period of three years, following a call for expression of interest published in the *Official Journal of the European Union* and in other publicly accessible periodicals or Internet sites. After an evaluation of the Executive Director's performance, the Governing Board may extend the term of office once for a further period of not more than four years.
5. The Executive Director shall in particular:
 - (a) submit to the Governing Board the Annual and Multiannual Implementation Plans and the corresponding expenditure estimates;
 - (b) submit to the Governing Board the annual budget proposal, including the staff establishment plan;
 - (c) submit to the Governing Board the annual activity report, including the corresponding expenditure;
 - (d) submit to the Governing Board the annual accounts and the balance-sheet;
 - (e) submit for the approval of the Governing Board, the arrangements and guidelines for evaluation and selection of project proposals, including procedures for the dissemination of research results;

- (f) supervise the management of the calls for project proposals;
- (g) submit for the approval of the Governing Board the list of project proposals selected for funding;
- (h) submit for the approval of the Governing Board the list of Grant Agreements to be concluded;
- (i) approve and sign the individual grant agreements established in line with the model grant agreement. Grant agreements with provisions that do not fully correspond to the model grant agreement shall be submitted to the Governing Board for approval;
- (j) submit for the approval of the Governing Board the service and supply contracts to be concluded;
- (k) submit to the Governing Board his/her proposal(s) concerning the organisation structure of the Programme Office and organise, direct and supervise the staff of the FCH Joint Undertaking;
- (l) organise meetings of the Governing Board;
- (m) ensure the secretariat for the Stakeholders' General Assembly;
- (n) attend as appropriate the meetings of the Scientific Committee as observer;
- (o) if appropriate, set up ad hoc expert groups, as decided by the Governing Board, to gather advice from experts;
- (p) monitor public and private financing and have the responsibility to propose to the Governing Board any corrective action necessary to maintain the required balance;
- (q) assess the level of in-kind contribution in accordance with the principles referred to in Article 12 (the first one at the end of the second financial year after the start of the FCH Joint Undertaking), and take responsibility for the assessment results being approved by the Governing Board and presented to the Commission within four months of the end of each financial year;
- (r) provide to the Governing Board any other information that may be requested;
- (s) provide the Commission with any information and service necessary for the mid-term and final reviews;
- (t) be responsible for risk assessment and risk management;
- (u) propose to the Governing Board any insurance that may be necessary for the FCH Joint Undertaking to take out in order to meet its obligations;
- (v) be responsible for preparing, negotiating and concluding Grant Agreements for the implementation of the RTD activities, and service and supply contracts necessary for the operations of the FCH Joint Undertaking;
- (w) be responsible for the preparatory work necessary for securing the annual discharge from the European Parliament.

Article 7

Programme Office

1. The Programme Office shall, under the responsibility of the Executive Director, execute all responsibilities of the FCH Joint Undertaking.
2. The Programme Office shall in particular:
 - (a) manage the launch of the calls for project proposals as foreseen in the annual implementation plan, the evaluation with the assistance of independent experts, and selection of the project proposals, the negotiation of the selected project proposals, and the follow-up and administration of the grant agreements, including their coordination;

- (b) be in charge of the establishment and management of the appropriate accounting system for the calculation of the actual public and private contributions to the projects;
- (c) provide the Governing Board and all other subsidiary bodies with relevant documentation and logistical support;
- (d) prepare the multiannual implementation plan and the corresponding expenditure estimates;
- (e) prepare the annual budget proposal, including the staff establishment plan;
- (f) prepare the annual activity report, including the corresponding expenditure;
- (g) prepare the annual accounts and the balance-sheet;
- (h) prepare all documents necessary for the mid-term and final review;
- (i) manage calls for tenders for goods and services according to the financial rules of the FCH Joint Undertaking;
- (j) perform any other tasks entrusted or delegated to it by the Governing Board.

Article 8

Scientific Committee

1. The Scientific Committee is an advisory body to the Governing Board. The Scientific Committee shall conduct its activities with the support of the Programme Office.
2. The Scientific Committee shall consist of no more than nine members.
3. The members shall reflect a balanced representation of world class expertise from academia, industry and regulatory bodies. Collectively, the Scientific Committee members shall have the scientific competencies and expertise covering the complete technical domain needed to make strategic science-based recommendations regarding the FCH Joint Undertaking.
4. The Governing Board shall establish the specific criteria and selection process for the composition of the Scientific Committee and shall appoint its members. The Governing Board shall take into account the potential candidates proposed by the FCH States Representative Group.
5. A chairperson shall be elected by consensus of the Scientific Committee from among its members.
6. The Scientific Committee shall have the following tasks:
 - (a) advise on the scientific priorities for the annual and Multiannual Implementation Plans proposal;
 - (b) advise on the scientific achievements described in the annual activity report;
 - (c) advise on the composition of the peer review committees.
7. The Scientific Committee shall meet at least once a year and shall be convened by the chairperson.
8. The Scientific Committee may, with the agreement of the chairperson, invite non-member persons to participate in its meetings.

*Article 9***FCH States Representatives Group**

1. The FCH States Representatives Group shall have an advisory role for the FCH Joint Undertaking.
2. The FCH States Representatives Group shall consist of one representative of each Member State and of each Associated country. It shall elect a chairperson among its members.
3. It shall in particular review information and provide opinions on the following topics:
 - (a) programme progress in the FCH Joint Undertaking;
 - (b) compliance and respect of targets;
 - (c) updating of strategic orientation;
 - (d) links to Framework Programme Collaborative Research;
 - (e) planning and outcome of calls for proposals and tenders;
 - (f) involvement of SMEs.
4. It shall also provide input to the Joint Undertaking on the following:
 - (a) status of and interface to Joint Undertaking activities to relevant national research programmes and identification of potential areas of cooperation;
 - (b) specific measures taken at national level with regard to dissemination events, dedicated technical workshops and communication activities.
5. The FCH States Representatives Group may issue, on its own initiative, recommendations to the FCH Joint Undertaking on technical, managerial and financial matters, in particular when these affect national interests. The FCH Joint Undertaking shall inform the FCH States Representatives Group of the follow up it has given to such recommendations.
6. The FCH States Representatives Group shall meet at least bi-annually and shall be convened by the Joint Undertaking. Extraordinary meetings can be convened to deal with specific matters of major relevance to FCH Joint Undertaking activities. These meetings shall be called by the FCH Joint Undertaking either on its own initiative or upon request from FCH States Representatives Group.
7. The Executive Director, the chairman of the Governing Board and/or their representatives and a Commission representative shall attend the meetings.
8. The FCH States Representatives Group shall adopt its rules of procedure.

*Article 10***Stakeholders' General Assembly**

1. The Stakeholders' General Assembly shall have an advisory role to the FCH Joint Undertaking. It shall be open to all public and private stakeholders, international interest groups from Member States, Associated countries as well as from third countries. It shall be convened once a year.
2. The Stakeholders' General Assembly shall be informed of the activities of the FCH Joint Undertaking and shall be invited to provide comments.

*Article 11***Internal auditing function**

The functions entrusted by Article 185(3) of Regulation (EC, Euratom) No 1605/2002 to the Commission's internal auditor shall be carried out under the responsibility of the Governing Board, which shall make appropriate provision, taking into account the size and the scope of the FCH Joint Undertaking.

*Article 12***Sources of financing**

1. The FCH Joint Undertaking shall be jointly funded by the Members through financial contributions paid in partial instalments, and in-kind contributions from legal entities participating in the activities.

Any other contribution to the FCH Joint Undertaking may also be accepted. The Governing Board shall decide on their acceptance and utilisation.

2. The running costs of the FCH Joint Undertaking shall be covered equally in cash by the Community and the Industry Grouping from the outset. As soon as the Research Grouping becomes a member of the FCH Joint Undertaking, it shall contribute to 1/12 of the running costs. In such a case, the Community contribution to running costs will decrease correspondingly.

The total Community contribution to the FCH Joint Undertaking running costs shall not exceed EUR 20 million. If part of the contribution from the Community is not used, it may be available for the activities of the FCH Joint Undertaking.

3. The operational costs of the FCH Joint Undertaking shall be covered through the financial contribution of the Community, and through in-kind contributions from the legal entities participating in the activities. The industry contribution shall at least match the Community's contribution. Other contributions to co-funding of activities will be considered as receipts in accordance with the Rules of Participation of the Seventh Framework Programme.

4. All resources of the FCH Joint Undertaking and its activities shall be devoted to the objectives provided for in Article 2 of this Regulation.

5. Any interest yielded by the contributions once received by the FCH Joint Undertaking shall be considered to be its revenue.

6. Any interest generated on the advance payment of grants paid out by the FCH Joint Undertaking shall be considered to be a receipt to the project consortium.

7. The level of the in-kind contributions, calculated on a yearly basis, shall be assessed once a year. The methodology for evaluating contributions in kind shall be defined by the FCH Joint Undertaking in compliance with its financial rules and based on the Rules for Participation of the Seventh Framework Programme. The first assessment shall be initiated at the end of the second financial year after the start of the FCH Joint Undertaking. The assessment shall thereafter be performed each financial year by an independent auditor. The results of the assessment shall be presented to the Commission within four months of the end of each financial year.

If the assessment establishes that the in-kind contribution from industry does not reach the required level, the Commission shall reduce its contribution the following year.

If it is established that the in-kind contribution from industry does not reach the required level for two consecutive years, the Commission may propose to the Council to terminate the FCH Joint Undertaking.

8. The FCH Joint Undertaking shall own all assets generated by it or transferred to it for the fulfilment of its objectives provided for in Article 2 of this Regulation.

*Article 13***Participation in activities**

1. Participation in projects shall be open to other legal entities and international organisations once the minimum conditions have been satisfied.
2. The minimum conditions to be fulfilled for projects funded by the FCH Joint Undertaking shall be the following:
 - (a) at least three legal entities must participate, each of which must be established in a Member State or Associated country, and no two of which may be established in the same Member State or Associated country;
 - (b) all three legal entities must be independent of each other as defined in Article 6 of the Rules of Participation of the Seventh Framework Programme;
 - (c) at least one legal entity must be a member of the Industry Grouping or the Research Grouping.
3. The legal entities wishing to participate in a project shall form a consortium and appoint one of their members to act as its coordinator.

In general, the coordinator should come from the Industry Grouping or from the Research Grouping if such Research Grouping becomes a member of the Joint Undertaking.

4. The minimum condition for service and supply contracts, support actions, studies and training activities funded by the FCH Joint Undertaking shall be the participation of one legal entity.

*Article 14***Implementation of RTD activities**

1. The FCH Joint Undertaking shall support RTD activities following open and competitive calls for proposals, independent evaluation, and the conclusion for each project of a Grant Agreement and a Consortium Agreement.
2. In exceptional cases the FCH Joint Undertaking may issue calls for tenders, if it is deemed necessary for the effective pursuance of the research objectives.
3. The FCH Joint Undertaking shall define the procedures and mechanisms for the implementation, supervision and control of Grant Agreements.
4. The Grant Agreement shall:
 - provide for the appropriate arrangements for the implementation of the RTD activities,
 - provide for the appropriate financial arrangements and the rules relating to intellectual property rights policy as referred to in Article 25,
 - govern the relationship between the project consortium and the FCH Joint Undertaking.
5. The Consortium Agreement shall be concluded by the project participants prior to the conclusion of the Grant Agreement. It shall:
 - provide for the appropriate arrangements for the implementation of the Grant Agreement,
 - govern the relationship between the participants in a project, in particular the Intellectual Property Rights provisions.

*Article 15***Funding of activities**

1. The following shall be eligible for funding:
 - (a) legal entities established in a Member State or an Associated country;
 - (b) international organisations, which have legal personality under international public law, as well as any specialised agencies set up by such organisations;
 - (c) legal entities from third countries, provided that the Governing Board considers their participation to be of particular benefit to the project.
2. In order to be considered eligible for Community funding, costs incurred in the implementation of research and development activities shall be excluded of value added tax.
3. The upper funding limits of the Community financial contribution in projects shall be aligned to comply with those laid down by the Rules for Participation of the Seventh Framework Programme. In case lower levels of funding will be necessary to comply with the matching principles referred to in Article 12(3), the decreases shall be fair and balanced proportionally with the above mentioned upper funding limits of the Rules of Participation of the Seventh Framework Programme for all categories of participants in each individual project.

*Article 16***Financial commitments**

Financial commitments of the FCH Joint Undertaking shall not exceed the amount of financial resources available or committed to its budget by its Members.

*Article 17***Financial revenues**

Except when the FCH Joint Undertaking is wound up pursuant to Article 27, any excess revenue over expenditure shall not be paid to the Members of the FCH Joint Undertaking.

*Article 18***Financial year**

The financial year shall correspond to the calendar year.

*Article 19***Financial implementation**

The Executive Director shall implement the budget of the FCH Joint Undertaking.

*Article 20***Financial reporting**

1. Every year, the Executive Director shall present to the Governing Board a preliminary draft annual budget plan, which shall include a forecast of annual expenditure for the following two years. Within this forecast, the estimates of revenue and expenditure for the first of those two financial years shall be drawn up in such detail as is necessary for the internal budgetary procedure of each member regarding its financial contributions to the FCH Joint Undertaking. The Executive Director shall supply the Governing Board with all supplementary information needed for this purpose.
2. The members of the Governing Board shall forthwith communicate to the Executive Director their comments on the preliminary draft budget and in particular on the estimates of resources and expenditure for the following year.

3. Taking into account the comments received from the members of the Governing Board, the Executive Director shall prepare the draft budget for the following year and submit it to the Governing Board for approval.
4. The annual Budget Plan and the Annual Implementation Plan for a particular year shall be adopted by the Governing Board of the FCH Joint Undertaking by the end of the previous year.
5. Within two months after the closure of each financial year, the annual accounts and balance sheets for the preceding year shall be submitted by the Executive Director to the Governing Board for approval. The annual accounts and balance sheets for the preceding year shall be submitted to the Court of Auditors and the Commission.

Article 21

Planning and reporting

1. The Multiannual Implementation Plan shall describe the rolling programme of RTD activities of the FCH Joint Undertaking. The Annual Implementation Plan shall include a detailed plan of the RTD activities and corresponding expenditure estimates for the coming year. Once approved by the Governing Board, a publishable version of the Annual Implementation Plan shall be made publicly available.
2. An annual activity report shall present progress made by the FCH Joint Undertaking in each calendar year, in particular in relation to the Annual Implementation Plan for that year. It shall also include information on the performed RTD activities, the costs and the contribution of the FCH Joint Undertaking for any individual project, the participation of SMEs as well as on other activities during the previous year and the corresponding expenditure. The Annual Activity Report shall be presented by the Executive Director together with the Annual Accounts and balance sheets. Once approved by the Governing Board, the Annual Activity Report shall be made public.

Article 22

Service and supply contracts

The FCH Joint Undertaking shall set up all the procedures and mechanisms for the implementation, supervision and control of service and supply contracts necessary for the operations of the FCH Joint Undertaking, according to the provisions of its financial rules.

Article 23

Liability of members and insurance

1. The financial liability of the members for the debts of the FCH Joint Undertaking shall be limited to their contribution already made for the running costs.
2. The FCH Joint Undertaking shall take out and maintain appropriate insurance.

Article 24

Conflict of interest

1. The FCH Joint Undertaking and its bodies shall avoid any conflict of interest in the implementation of their activities.
2. In particular care must be taken where a conflict of interest may occur for the representatives serving in the Governing Board.

Article 25

Intellectual property rights policy

1. The FCH Joint Undertaking shall adopt its general rules governing the Intellectual Property Rights policy of the FCH Joint Undertaking in accordance with Article 15 of this Regulation that will be incorporated in the Grant Agreements and Consortium Agreements.
2. The objective of the Intellectual Property Rights policy of the FCH Joint Undertaking is to generate foreground information, promote its exploitation, use and dissemination for rapid development towards commercial results, to achieve fair allocation of rights, to reward innovation, and to achieve a broad participation of private and public entities in projects.

3. The Intellectual Property Rights policy shall reflect the following principles:
 - each participant in a project shall remain the owner of the background it introduces into a project, and shall remain the owner of the foreground it generates in a project, unless otherwise mutually agreed in writing by the participants in a project. The terms and conditions of access rights and licenses with regard to the background or foreground, shall be defined in the Grant Agreement and the Consortium Agreement of the project concerned,
 - the participants in a project shall undertake to disseminate and allow the use of foreground under terms and conditions defined in the Grant Agreement and the Consortium Agreement, taking into account the protection of their intellectual property rights, confidentiality obligations and, in particular the specific nature of the FCH Joint Undertaking as a public-private partnership.

Article 26

Amending the Statutes

1. Any Member of the FCH Joint Undertaking may take an initiative to the Governing Board for the amendment of these Statutes.
2. The initiatives referred to in paragraph 1 as approved by the Governing Board shall be submitted as draft amendments to the Commission which shall adopt them, as appropriate.
3. However, any amendment affecting the essential elements of these Statutes and in particular amendments to Articles 2, 3, 5, 6, 12, 13, 14, 15, 23, 26 and 27 shall be adopted in accordance with Article 172 of the Treaty.

Article 27

Winding up

1. At the end of the period provided for in Article 1 of this Regulation, or following an amendment pursuant to Article 11(2) of this Regulation, the FCH Joint Undertaking shall be wound up.
 2. The winding-up procedure shall be automatically triggered if one of the founding members terminates its membership, unless the request for termination is accompanied by a proposal for the transfer of the membership to a legal entity that can be accepted by the remaining founding member.
 3. For the purpose of conducting the proceedings in winding up the FCH Joint Undertaking, the Governing Board shall appoint one or more liquidators, who shall comply with the decisions of the Governing Board.
 4. When the FCH Joint Undertaking is being wound up, it shall return to the host State any physical support item made available by the host State in accordance with the host agreement.
 5. When any physical support item has been dealt with as provided in paragraph 4, any further assets shall be used to cover the liabilities of the FCH Joint Undertaking and the expenditures relating to its winding-up. Any surplus shall be distributed among the members existing at the time of the winding up in proportion to their actual contribution to the FCH Joint Undertaking. Any surplus distributed to the Community shall be returned to the Commission budget.
 6. Remaining assets shall be distributed to the members existing at the time of the winding up in proportion to their actual contribution to the FCH Joint Undertaking.
 7. An ad hoc procedure shall be set up to ensure the appropriate management of any Grant Agreement and service and supply contract concluded by the FCH Joint Undertaking, with a duration longer than the duration of the FCH Joint Undertaking.
-

COMMISSION REGULATION (EC) No 522/2008**of 11 June 2008****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽¹⁾, and in particular Article 138(1) thereof,

Whereas:

- (1) Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes

the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 June 2008.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 2008.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

to Commission Regulation of 11 June 2008 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MA	107,1
	MK	36,7
	TR	67,5
	ZZ	70,4
0707 00 05	JO	162,5
	MK	23,0
	TR	144,2
	ZZ	109,9
0709 90 70	TR	99,0
	ZZ	99,0
0805 50 10	AR	115,1
	EG	150,8
	TR	129,5
	US	132,0
	ZA	119,2
	ZZ	129,3
0808 10 80	AR	106,3
	BR	82,5
	CL	96,8
	CN	83,9
	MK	63,0
	NZ	106,4
	US	116,3
	UY	85,6
	ZA	81,3
	ZZ	91,3
0809 10 00	TR	268,6
	US	317,3
	ZZ	293,0
0809 20 95	TR	488,1
	US	380,0
	ZZ	434,1
0809 30 10, 0809 30 90	EG	195,5
	US	200,1
	ZZ	197,8

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 523/2008**of 11 June 2008****amending Annexes VIII, X and XI to Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the import of blood products for the manufacture of technical products****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption⁽¹⁾, and in particular Article 4(4), the second paragraph of Article 28, the first subparagraph of Article 29(3) and Article 32(1),

Whereas:

- (1) Regulation (EC) No 1774/2002 lays down animal and public health requirements for the import into and transit through the Community of blood products intended for technical purposes, including model import health certificates and list of countries authorised for imports.
- (2) Regulation (EC) No 1774/2002 provides that animal by-products which have been derived from animals treated with certain substances prohibited under Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stock farming of certain substances having a hormonal or thyrostatic action and of β -agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC⁽²⁾ may only be imported into the Community in accordance with Regulation (EC) No 1774/2002 or with specific rules to be laid down.
- (3) The possibility to import such blood products is vital for the biotechnology industry for the manufacture of various technical products used mainly by the pharmaceutical and research community. As those products are not intended either for human or animal consumption and during their processing and technical use they pose no risk to animal and human health by reason of being derived from animals treated with certain substances prohibited under Directive 96/22/EC, it is appropriate to allow the imports into the Community of such blood products.
- (4) Regulation (EC) No 1774/2002 provides that the blood products used for the manufacture of technical products must be specifically treated or the country or region of origin of the products must be free from certain diseases without vaccination. However, several countries or certain regions are eligible to deliver fresh meat of ruminants to the Community by reason of being free from foot-and-mouth disease with vaccination, provided that the risk against possible virus circulation is mitigated. Similarly, it is appropriate to allow imports of untreated blood products of ruminants from such countries or regions, provided that those products are channelled to their place of destination under secure conditions for further processing.
- (5) Regulation (EC) No 1774/2002 also provides, in case of blood products of ruminant origin that the region of origin must be eligible for the import of live animals of the same species into the Community. According to international standards, blood products are less likely to transmit diseases of concern than live animals. It is therefore appropriate to delete this condition from the relevant requirements.
- (6) Part VI(A) of Annex XI to Regulation (EC) No 1774/2002 sets out lists of third countries from which Member States may authorise imports of blood products intended for technical purposes. Those lists are currently limited to countries from which the import of all categories of fresh meat of the respective species for human consumption is authorised.
- (7) Since the applicable requirements allow for the treatment of the blood products, those lists should be extended also to countries which are not authorised to export fresh meat of the respective species into the Community but are able to comply with the treatment requirements. However, for the sake of clarity, separate health certificates should be laid down for treated and untreated blood products.
- (8) It is appropriate to update the requirements related to the import of blood products from poultry and other avian species by referring to the international standards laid down in the Terrestrial Animal Health Code of the World Organisation for Animal Health (OIE).
- (9) Annexes VIII, X and XI to Regulation (EC) No 1774/2002 should therefore be amended accordingly.

⁽¹⁾ OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 437/2008 (OJ L 32, 22.5.2008, p. 7).

⁽²⁾ OJ L 125, 23.5.1996, p. 3. Directive as amended by Directive 2003/74/EC of the European Parliament and of the Council (OJ L 262, 14.10.2003, p. 17).

(10) A transitional period should be provided for after the date of entry into force of this Regulation, in order to provide the necessary time for the stakeholders to comply with the new rules and to allow for the continued importation into the Community of the blood products as currently covered by Regulation (EC) No 1774/2002.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes VIII, X and XI to Regulation (EC) No 1774/2002 are amended in accordance with the Annex to this Regulation.

Article 2

Consignments of blood products accompanied by health certificates completed and signed in accordance with the provisions of Regulation (EC) No 1774/2002 applicable before the date of entry into force of this Regulation shall be accepted for import into the Community until 12 December 2008 at the latest.

Such consignments shall also be accepted until 12 February 2009 at the latest if the accompanying health certificates were completed and signed by 12 December 2008 at the latest.

Article 3

This Regulation shall enter into force and apply on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 2008.

For the Commission

Androulla VASSILIOU

Member of the Commission

ANNEX

The Annexes to Regulation (EC) No 1774/2002 are amended as follows:

(1) In Annex VIII, Chapter IV is replaced by the following:

‘CHAPTER IV

Requirements for blood and blood products, excluding from equidae, for the manufacture of technical products*A. Importation*

1. Imports of blood are subject to the requirements laid down in Chapter XI.
2. Member States must authorise imports of blood products for the manufacture of technical products, including material originating from animals to which substances prohibited pursuant to Directive 96/22/EC have been administered, if they:
 - (a) come from third countries that appear on the list in Part VI (A) of Annex XI as applicable;
 - (b) come from a technical plant meeting the specific conditions laid down in this Regulation or from the establishment of collection;
 - (c) are accompanied by a health certificate that conforms to the model set out in Chapter 4(C) or Chapter 4(D) of Annex X as appropriate.
3. The blood from which blood products for the manufacture of technical products are produced must have been collected:
 - (a) in slaughterhouses approved in accordance with Community legislation;
 - (b) in slaughterhouses approved and supervised by the competent authority of the third country; or
 - (c) from live animals in facilities approved and supervised by the competent authority of the third country.
4. In the case of blood products for the manufacture of technical products which have been derived from animals belonging to the *taxa Artiodactyla*, *Perissodactyla* and *Proboscidea*, including their crossbreeds, they must comply with the conditions of either points (a) or (b):
 - (a) the products have undergone one of the following treatments guaranteeing the absence of pathogens of the diseases referred to in point (b):
 - (i) heat treatment at a temperature of 65 °C for at least three hours, followed by an effectiveness check,
 - (ii) irradiation at 25 kGy by gamma rays, followed by an effectiveness check,
 - (iii) heat treatment of at least 80 °C throughout their substance, followed by an effectiveness check,
 - (iv) in the case of animals other than *Suidae* and *Tayassuidae* only: change in pH to pH 5 for two hours, followed by an effectiveness check;
 - (b) in case of blood products not treated in accordance with point (a) the products originate from a country or region:
 - (i) where no case of rinderpest, *peste des petits ruminants* and Rift Valley fever has been recorded for 12 months and in which vaccination has not been carried out against those diseases for at least 12 months,
 - (ii) where no case of foot-and-mouth disease has been recorded for 12 months and in which vaccination has not been carried out against this disease for at least 12 months, or

where no case of foot-and-mouth disease has been recorded for 12 months and in which vaccination programmes against foot-and-mouth disease are being officially carried out and controlled in domestic ruminant animals for at least 12 months; in this case, following the border check provided for in Directive 97/78/EC, and in accordance with the conditions laid down in Article 8(4) of that Directive, the products must be transported directly to the technical plant of destination and all precautions, including safe disposal of waste, unused or surplus material, must be taken to avoid risks of spreading diseases to animals or humans.

In addition to points (i) and (ii), in the case of animals other than *Suidae* and *Tayassuidae*, one of the following conditions must be complied with:

- in the country or region of origin no case of vesicular stomatitis and bluetongue (including the presence of seropositive animals) has been recorded for 12 months and vaccination has not been carried out against those diseases for at least 12 months in the susceptible species,
- following the border check provided for in Directive 97/78/EC, and in accordance with the conditions laid down in Article 8(4) of that Directive, the products must be transported directly to the technical plant of destination and all precautions, including safe disposal of waste, unused or surplus material, must be taken to avoid risks of spreading diseases to animals or humans.

In addition to points (i) and (ii), in the case of *Suidae* and *Tayassuidae*, in the country or region of origin no case of swine vesicular disease, classical swine fever and African swine fever has been recorded for at least 12 months, vaccination has not been carried out against those diseases for at least 12 months and one of the following conditions are complied with:

- in the country or region of origin no case of vesicular stomatitis (including the presence of seropositive animals) has been recorded for 12 months and vaccination has not been carried out against this disease for at least 12 months in the susceptible species,
- following the border check provided for in Directive 97/78/EC, and in accordance with the conditions laid down in Article 8(4) of that Directive, the products must be transported directly to the technical plant of destination and all precautions, including safe disposal of waste, unused or surplus material, must be taken to avoid risks of spreading diseases to animals or humans.

5. In the case of blood products for the manufacture of technical products which have been derived from poultry and other avian species, they must comply with the conditions of either points (a) or (b):

(a) the products have undergone one of the following treatments guaranteeing the absence of pathogens of the diseases referred to in point (b):

- (i) heat treatment at a temperature of 65 °C for at least three hours, followed by an effectiveness check,
- (ii) irradiation at 25 kGy by gamma rays, followed by an effectiveness check,
- (iii) heat treatment of at least 70 °C throughout their substance, followed by an effectiveness check;

(b) in case of blood products not treated in accordance with point (a) the products originate from a country or region:

- (i) which has been free from Newcastle disease and highly pathogenic avian influenza as defined in the Terrestrial Animal Health Code of the OIE,
- (ii) which during the last 12 months has not carried out vaccination against avian influenza,
- (iii) where the poultry or other avian species from which the products derive have not been vaccinated against Newcastle disease with vaccines prepared from a Newcastle disease master strain showing a higher pathogenicity than lentogenic virus strains.'

(2) Annex X is amended as follows:

(a) Chapter 4(C) is replaced by the following:

‘CHAPTER 4(C)

Health certificate

For untreated blood products, excluding of equidae, for the manufacture of technical products, intended for dispatch to or for transit through ⁽²⁾ the European Community

COUNTRY

Veterinary certificate to EU

Part I: Details of dispatched consignment	I.1. Consignor Name Address Tel. No		I.2. Certificate reference number		I.2.a.		
			I.3. Central Competent Authority				
			I.4. Local Competent Authority				
	I.5. Consignee Name Address Postal code Tel. No		I.6. Person responsible for the consignment in EU Name Address Postal code Tel. No				
	I.7. Country of origin	ISO code	I.8. Region of origin	Code	I.9. Country of destination	ISO code	I.10.
	I.11. Place of origin Name Address Approval number		I.12. Place of destination Custom warehouse ☐ Name Address Postal code Approval number				
	I.13. Place of loading		I.14. Date of departure				
	I.15. Means of transport Aeroplane ☐ Ship ☐ Railway wagon ☐ Road vehicle ☐ Other ☐		I.16. Entry BIP in EU				
	Identification: Documentary references:		I.17.				
	I.18. Description of commodity				I.19. Commodity code (HS code) 30.02		
				I.20. Quantity			
I.21. Temperature of product Ambient ☐ Chilled ☐ Frozen ☐				I.22. Number of packages			
I.23. Identification of container/Seal number				I.24. Type of packaging			
I.25. Commodities certified for: Technical use ☐							
I.26. For transit to 3rd Country vis-à-vis EU ☐ third country ISO code			I.27. For import or admission into EU ☐				
I.28. Identification of the commodities Species (Scientific name) Nature of commodity Approval number of establishments Manufacturing plant Batch number							

COUNTRY

Untreated blood products, excluding of equidae,
for technical products

II. Health information		II.a. Certificate reference number	II.b.
Part II: Certification	II.	Health attestation	
		I, the undersigned official veterinarian, declare that I have read and understood Regulation (EC) No 1774/2002 ⁽¹⁾ and in particular Article 4(1)(c), Article 6 and Chapter IV of Annex VIII thereof and certify that:	
	II.1.	the blood products described above consist of blood products that satisfy the health requirements below;	
	II.2.	they consist exclusively of blood products not intended for human or animal consumption;	
	II.3.	they have been prepared and stored in a plant approved, validated and supervised by the competent authority in accordance with Article 18 or in the establishment of collection and where appropriate Article 11 of Regulation (EC) No 1774/2002 ⁽²⁾ , exclusively with the following animal by-products:	
	⁽²⁾ either	[— blood of slaughtered animals, which is fit for human consumption in accordance with Community legislation, but is not intended for human consumption for commercial reasons;]	
	⁽²⁾ and/or	[— blood of slaughtered animals, which is rejected as unfit for human consumption but is not affected by any signs of diseases communicable to humans or animals, derived from carcasses that are fit for human consumption in accordance with Community legislation;]	
	⁽²⁾ and/or	[— blood obtained from animals other than ruminants that are slaughtered in a slaughterhouse, after undergoing ante-mortem inspection, and were fit, as a result of such inspection, for slaughter for human consumption in accordance with Community legislation;]	
	⁽²⁾ and/or	[— blood and blood products originating from live animals that did not show clinical signs of any disease communicable through these products to humans or animals;]	
	II.4.	the blood from which such products are manufactured has been collected:	
	⁽²⁾ either	[in slaughterhouses approved in accordance with Community legislation,]	
	⁽²⁾ or	[in slaughterhouses approved and supervised by the competent authority of the third country,]	
	⁽²⁾ or	[from live animals in facilities approved and supervised by the competent authority of the third country.]	
	⁽²⁾ II.5.	in the case of blood products derived from animals belonging to the <i>taxa Artiodactyla</i> , <i>Perissodactyla</i> and <i>Proboscidea</i> , including their crossbreds, the products come:	
	II.5.1.	from a country where no case of rinderpest, <i>peste des petits ruminants</i> and Rift Valley fever has been recorded for 12 months and in which vaccination has not been carried out against those diseases for at least 12 months,	
⁽²⁾ [II.5.2. either	[from the territory of a country or region with code ... ⁽³⁾ where no case of foot-and-mouth disease has been recorded for 12 months and in which vaccination has not been carried out against this disease for at least 12 months,]]		
⁽²⁾ [II.5.2. or	[from the territory of a country or region with code ... ⁽³⁾ where no case of foot-and-mouth disease has been recorded for 12 months and in which vaccination programmes against foot-and-mouth disease are being officially carried out and controlled in domestic ruminant animals for at least 12 months ⁽⁴⁾]]		
⁽²⁾ II.5.3.	In addition, in case of animals other than <i>Suidae</i> and <i>Tayassuidae</i> :		
⁽²⁾ either	[in the country or region of origin no case of vesicular stomatitis and bluetongue ⁽²⁾ (including the presence of seropositive animals) has been recorded for 12 months and in which vaccination has not been carried out against those diseases for at least 12 months,]		
⁽²⁾ or	[in the country or region of origin vesicular stomatitis and bluetongue ⁽²⁾ seropositive animals are present ⁽⁴⁾]		
⁽²⁾ [II.5.4.	In addition, in case of <i>Suidae</i> and <i>Tayassuidae</i> :		
II.5.4.1.	[in the country or region of origin no case of swine vesicular disease, classical swine fever and African swine fever has been recorded for at least 12 months and vaccination has not been carried out against those diseases for at least 12 months in the susceptible species,]]		
⁽²⁾ [II.5.4.2. either	[in the country or region of origin no case of vesicular stomatitis (including the presence of seropositive animals) has been recorded for 12 months and in which vaccination has not been carried out against this disease for at least 12 months,]]		

COUNTRY

Untreated blood products, excluding of equidae,
for technical products

II. Health information		II.a. Certificate reference number	II.b.
(²) [II.5.4.2. or	[in the country or region of origin vesicular stomatitis seropositive animals are present (⁴),]]		
(²) [II.6.	in the case of blood products derived from poultry or other avian species the animals and the products come from the territory of a country or region with code ... (⁵)] which has been free from Newcastle disease and highly pathogenic avian influenza as defined in the Terrestrial Animal Health Code of the OIE, which for at least 12 months has not carried out vaccination against avian influenza, where the animals from which the products derive have not been vaccinated against Newcastle disease with vaccines prepared from a Newcastle disease master strain showing a higher pathogenicity than lentogenic virus strains.		
II.7.	the products were:		
(²) either	[packed in new or sterilised bags or bottles,]		
(²) or	[transported in bulk in containers or other means of transport that were thoroughly cleaned and disinfected with a disinfectant approved by the competent authority before use,] the outer packaging or containers bear labels indicating "NOT FOR HUMAN OR ANIMAL CONSUMPTION";		
II.8.	the products were stored in enclosed storage;		
II.9.	the products have undergone all precautions to avoid contamination with pathogenic agents during transport.		
Notes			
Part I:			
— Box reference I.6: Person responsible for the consignment in the European Community: this box is to be filled in only if it is a certificate for transit commodity; it may be filled in if the certificate is for import commodity. — Box reference I.12: Place of destination: this box is to be filled in only if it is a certificate for transit commodity. The products in transit can only be stored in free zones, free warehouses and custom warehouses. — Box reference I.15: Registration number (railway wagons or container and lorries), flight number (aircraft) or name (ship); information is to be provided in case of unloading and reloading. — Box reference I.23: for bulk containers, the container number and the seal number (if applicable) should be included. — Box reference I.26 and I.27: fill in according to whether it is a transit or an import certificate.			
Part II:			
(¹) OJ L 273, 10.10.2002, p. 1. (²) Delete as appropriate. (³) Code of the territory as it appears in Part 1 of Annex II to Decision 79/542/EEC. (⁴) In this case following the border check provided for in Directive 97/78/EC, and in accordance with the conditions laid down in Article 8(4) of that Directive, the products must be transported directly to the technical plant of destination. (⁵) Code of the territory as it appears in Part 1 of Annex II to Decision 2006/696/EC. — The signature and the stamp must be in a different colour to that of the printing. — Note for the person responsible for the consignment in the European Community: this certificate is only for veterinary purposes and has to accompany the consignment until it reaches the border inspection post.			
Official veterinarian			
Name (in capital letters):		Qualification and title:	
Date:		Signature:	
Stamp:			

(b) The following Chapter 4(D) is added:

'CHAPTER 4(D)

Health certificate

For treated blood products, excluding of equidae, for the manufacture of technical products, intended for dispatch to or for transit through ⁽²⁾ the European Community

COUNTRY

Veterinary certificate to EU

Part I: Details of dispatched consignment	I.1. Consignor Name Address Tel. No		I.2. Certificate reference number		I.2.a.	
			I.3. Central Competent Authority			
			I.4. Local Competent Authority			
	I.5. Consignee Name Address Postal code Tel. No		I.6. Person responsible for the consignment in EU Name Address Postal code Tel. No			
	I.7. Country of origin	ISO code	I.8. Region of origin	Code	I.9. Country of destination	ISO code
					I.10.	
	I.11. Place of origin Name Address Approval number		I.12. Place of destination Custom warehouse ☐ Name Address Postal code Approval number			
	I.13. Place of loading		I.14. Date of departure			
	I.15. Means of transport Aeroplane ☐ Ship ☐ Railway wagon ☐ Road vehicle ☐ Other ☐ Identification: Documentary references:		I.16. Entry BIP in EU		I.17.	
	I.18. Description of commodity		I.19. Commodity code (HS code) 30.02			
				I.20. Quantity		
I.21. Temperature of product Ambient ☐ Chilled ☐ Frozen ☐				I.22. Number of packages		
I.23. Identification of container/Seal number				I.24. Type of packaging		
I.25. Commodities certified for: Technical use ☐						
I.26. For transit to 3rd Country vis-à-vis EU ☐ third country ISO code		I.27. For import or admission into EU ☐				
I.28. Identification of the commodities Species (Scientific name) Nature of commodity Approval number of establishments Manufacturing plant Batch number						

COUNTRY

Treated blood products, excluding of equidae,
for technical products

II. Health information		II.a. Certificate reference number	II.b.	
Part II: Certification	II. Health attestation			
	I, the undersigned official veterinarian, declare that I have read and understood Regulation (EC) No 1774/2002 ⁽¹⁾ and in particular Article 4(1)(c), Article 6 and Chapter IV of Annex VIII thereof and certify that:			
	II.1.	the blood products described above consist of blood products that satisfy the requirements below;		
	II.2.	they consist exclusively of blood products not intended for human or animal consumption;		
	II.3.	they have been prepared and stored in a plant approved, validated and supervised by the competent authority in accordance with Article 18 or in the establishment of collection and where appropriate Article 11 of Regulation (EC) No 1774/2002 ⁽²⁾ , exclusively with the following animal by-products:		
	⁽²⁾ either	[— blood of slaughtered animals, which is fit for human consumption in accordance with Community legislation, but is not intended for human consumption for commercial reasons;]		
	⁽²⁾ and/or	[— blood of slaughtered animals, which is rejected as unfit for human consumption but is not affected by any signs of diseases communicable to humans or animals, derived from carcasses that are fit for human consumption in accordance with Community legislation;]		
	⁽²⁾ and/or	[— blood obtained from animals other than ruminants that are slaughtered in a slaughterhouse, after undergoing ante-mortem inspection, and were fit, as a result of such inspection, for slaughter for human consumption in accordance with Community legislation;]		
	⁽²⁾ and/or	[— blood and blood products originating from live animals that did not show clinical signs of any disease communicable through these products to humans or animals.]		
	II.4.	the blood from which such products are manufactured has been collected:		
	⁽²⁾ either	[in slaughterhouses approved in accordance with Community legislation,]		
	⁽²⁾ or	[in slaughterhouses approved and supervised by the competent authority of the third country,]		
	⁽²⁾ or	[from live animals in facilities approved and supervised by the competent authority of the third country.]		
	⁽²⁾ II.5.	In case of blood products derived from <i>taxa Artiodactyla</i> , <i>Perissodactyla</i> and <i>Proboscidea</i> including their crossbreeds, other than <i>Suidae</i> and <i>Tayassuidae</i> , the products have undergone one of the following treatments, guaranteeing the absence of pathogens of foot-and-mouth disease, vesicular stomatitis, rinderpest, <i>peste des petits ruminants</i> , Rift Valley fever and blue-tongue:		
	⁽²⁾ either	[heat treatment at a temperature of 65 °C for at least three hours, followed by an effectiveness check,]		
	⁽²⁾ or	[irradiation at 25 kGy by gamma rays, followed by an effectiveness check,]		
	⁽²⁾ or	[change in pH to pH 5 for two hours, followed by an effectiveness check,]		
	⁽²⁾ or	[heat treatment of at least 80 °C throughout their substance, followed by an effectiveness check]		
	⁽²⁾ II.6.	In the case of blood products derived from <i>Suidae</i> , <i>Tayassuidae</i> , poultry and other avian species, the products have undergone one of the following treatments guaranteeing the absence of pathogens of the following diseases: foot-and-mouth disease, vesicular stomatitis, swine vesicular disease, classical swine fever, African swine fever, Newcastle disease and highly pathogenic avian influenza as appropriate to the species;		
	⁽²⁾ either	[heat treatment at a temperature of 65 °C for at least three hours, followed by an effectiveness check,]		
	⁽²⁾ or	[irradiation at 25 kGy by gamma rays, followed by an effectiveness check,]		
	⁽²⁾ or	[heat treatment of at least 80 °C for <i>Suidae/Tayassuidae</i> ⁽²⁾ and at least 70 °C for poultry and other avian species ⁽²⁾ throughout their substance, followed by an effectiveness check]		
	⁽²⁾ [II.7.	In the case of blood products derived from species other than listed under II.5 or II.6 the products have undergone of the following treatment (please specify): ...]		
II.8.	The products were:			
⁽²⁾ either	[packed in new or sterilised bags or bottles,]			
⁽²⁾ or	[transported in bulk in containers or other means of transport that were thoroughly cleaned and disinfected with a disinfectant approved by the competent authority before use,] the outer packaging or containers bear labels indicating "NOT FOR HUMAN OR ANIMAL CONSUMPTION";			

COUNTRY

Untreated blood products, excluding of equidae,
for technical products

II. Health information	II.a. Certificate reference number	II.b.						
II.9. the products were stored in enclosed storage; II.10. the products have undergone all precautions to avoid contamination with pathogenic agents after treatment. Notes Part I: — Box reference I.6: Person responsible for the consignment in the European Community: this box is to be filled in only if it is a certificate for transit commodity; it may be filled in if the certificate is for import commodity. — Box reference I.12: Place of destination: this box is to be filled in only if it is a certificate for transit commodity. The products in transit can only be stored in free zones, free warehouses and custom warehouses. — Box reference I.15: Registration number (railway wagons or container and lorries), flight number (aircraft) or name (ship); information is to be provided in case of unloading and reloading. — Box reference I.23: for bulk containers, the container number and the seal number (if applicable) should be included. — Box reference I.26 and I.27: fill in according to whether it is a transit or an import certificate. Part II: (¹) OJ L 273, 10.10.2002, p. 1. (²) Delete as appropriate. — The signature and the stamp must be in a different colour to that of the printing. — Note for the person responsible for the consignment in the European Community: this certificate is only for veterinary purposes and has to accompany the consignment until it reaches the border inspection post.								
Official veterinarian <table border="0"> <tr> <td>Name (in capital letters):</td> <td>Qualification and title:</td> </tr> <tr> <td>Date:</td> <td>Signature:</td> </tr> <tr> <td>Stamp:</td> <td></td> </tr> </table>			Name (in capital letters):	Qualification and title:	Date:	Signature:	Stamp:	
Name (in capital letters):	Qualification and title:							
Date:	Signature:							
Stamp:								

(3) In Annex XI, Part VI (A) is replaced by the following:

‘A. Blood products:

1. Untreated blood products of ungulates:

Third countries or parts of third countries listed in Part 1 of Annex II to Decision 79/542/EEC from which imports of fresh meat of any domestic ungulate species is authorised and only for the period indicated in columns 7 and 8 of that Part,

Japan.

2. Untreated blood products of poultry and other avian species:

Third countries or parts of third countries listed in Part 1 of Annex II to Decision 2006/696/EC,

Japan.

3. Untreated blood products of other animals:

Third countries listed either in Part 1 of Annex II to Decision 79/542/EEC, in Part 1 of Annex II to Commission Decision 2006/696/EC or in Annex I to Commission Decision 2000/585/EC,

Japan.

4. Treated blood products of any species:

Third countries listed in Part 1 to Annex II of Decision 79/542/EEC, in Part 1 of Annex II to Decision 2006/696/EC or in Annex I to Decision 2000/585/EC,

Japan.’

COMMISSION REGULATION (EC) No 524/2008**of 11 June 2008****amending Regulation (EC) No 1623/2000 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999, with regard to the time limit for using wine alcohol awarded for new industrial uses**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, and in particular Article 33 thereof,

Whereas:

(1) Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms ⁽²⁾, lays down, *inter alia*, detailed rules for disposing of stocks of alcohol obtained by distillation under Articles 27, 28 and 30 of Regulation (EC) No 1493/1999 and held by the intervention agencies.

(2) Pursuant to Article 80 of Regulation (EC) No 1623/2000, tendering procedures are opened to sell wine alcohol for new industrial uses in order to reduce stocks of wine alcohol of Community origin and enable small-scale industrial projects to be carried out or such alcohol to be processed into goods intended for export for industrial uses.

(3) In view of the large quantities of alcohol sold in 2006 for new industrial uses, the period within which tenderers must use the alcohol, namely two years, provided for in Article 85(5) of Regulation (EC) No 1623/2000, is too short and should be extended by one year.

(4) Regulation (EC) No 1623/2000 should be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Wine,

HAS ADOPTED THIS REGULATION:

Article 1

Article 85(5) of Regulation (EC) No 1623/2000 is replaced by the following:

‘5. The alcohol must be fully used within three years of the date of first removal.’

Article 2

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 June 2008.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 1234/2007 (OJ L 299, 16.11.2007, p. 1).

⁽²⁾ OJ L 194, 31.7.2000, p. 45. Regulation as last amended by Regulation (EC) No 1433/2007 (OJ L 320, 6.12.2007, p. 18).

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 6 June 2008

appointing an Italian member of the Committee of the Regions

(2008/434/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the Italian Government,

Whereas:

- (1) On 24 January 2006 the Council adopted Decision 2006/116/EC ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2006 to 25 January 2010.
- (2) The seat of a member has fallen vacant following the expiry of the mandate of Mr Giancarlo GABBIANELLI,

HAS DECIDED AS FOLLOWS:

Article 1

Mr Giuseppe MICARELLI, Sindaco del Comune di Capodimonte, is hereby appointed a member of the Committee of the Regions for the remainder of the term of office, which ends on 25 January 2010.

Article 2

This Decision shall take effect on the day of its adoption.

Done at Luxembourg, 6 June 2008.

For the Council

The President

A. VIZJAK

⁽¹⁾ OJ L 56, 25.2.2006, p. 75.

COUNCIL DECISION
of 6 June 2008
appointing two French members of the Committee of the Regions
(2008/435/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the proposal from the French Government,

Whereas:

- (1) On 24 January 2006 the Council adopted Decision 2006/116/EC ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2006 to 25 January 2010.
- (2) Two members' seats on the Committee of the Regions have become vacant following the end of the mandates of Mr Alfred ALMONT and Mr Olivier BERTRAND,

HAS DECIDED AS FOLLOWS:

Article 1

The following are hereby appointed as members of the Committee of the Regions for the remainder of the current term of office, ending on 25 January 2010:

- Mr Alfred ALMONT, Conseiller municipal de Schoelcher (change of mandate),
- Mr Olivier BERTRAND, Conseiller municipal de Saint-Sylvain de Bellegarde (change of mandate).

Article 2

This Decision shall take effect on the date of its adoption.

Done at Luxembourg, 6 June 2008.

For the Council
The President
A. VIZJAK

⁽¹⁾ OJ L 56, 25.2.2006, p. 75.

COUNCIL DECISION**of 9 June 2008****appointing and replacing members of the Governing Board of the European Centre for the Development of Vocational Training**

(2008/436/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to Council Regulation (EEC) No 337/75 of 10 February 1975 establishing the European Centre for the Development of Vocational Training ⁽¹⁾, and in particular Article 4 thereof,

Having regard to the lists of nominees submitted to the Council by the Commission as regards the employees' representatives,

Whereas:

(1) By its Decision of 18 September 2006 ⁽²⁾, the Council appointed the members of the Governing Board of the European Centre for the Development of Vocational Training for the period from 18 September 2006 to 17 September 2009.

(2) A members' seat on the Governing Board of the Centre in the category of the Employees' representatives has become vacant as a result of the resignation of Mr Gregor MIKLIC,

Sole Article

The following person is hereby appointed member of the Governing Board of the European Centre for the Development of Vocational Training for the remainder of the term of office, which runs until 17 September 2009:

I. REPRESENTATIVES OF EMPLOYEES' ORGANISATIONS

SLOVENIA Mr Marjan URBANČ

Association of Free Trade Unions of Slovenia

Done at Luxembourg, 9 June 2008.

For the Council
The President
M. COTMAN

⁽¹⁾ OJ L 39, 13.2.1975, p. 1. Regulation as last amended by Regulation (EC) No 2051/2004 (OJ L 355, 1.12.2004, p. 1).

⁽²⁾ OJ C 240, 5.10.2006, p. 1.

COMMISSION

COMMISSION DECISION

of 11 June 2008

amending Decision 2006/109/EC accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of certain castings originating in the People's Republic of China

(2008/437/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, and in particular Article 8 thereof,

After consulting the Advisory Committee,

Whereas:

A. EXISTING MEASURES

- (1) In July 2005, the Council, by Regulation (EC) No 1212/2005⁽²⁾, imposed a definitive anti-dumping duty on imports of certain castings originating in the People's Republic of China (the PRC).
- (2) The Commission, by Decision 2006/109/EC⁽³⁾, accepted a price undertaking from, *inter alia*, the Benito Group, including Fundició Dúctil Benito, S.L. (Spain), Benito France, S.A.R.L., Zibo Benito Metalwork Co. Ltd, Benito (Tianjin) Metals Products Co. Ltd, and Qingdao Benito Metals Products Co. Ltd (Benito Group or the companies).
- (3) The companies from which the undertaking was accepted have a joint and several liability for any infringement of

the undertaking. This means that if one of the members of the Benito Group breaches the undertaking, it should be withdrawn for all members of the group.

B. BREACHES OF THE UNDERTAKING

1. Obligations of the companies under the undertaking

- (4) The undertaking offered by the companies obliges them to, *inter alia*, resell the product covered to the first independent customer in the European Community above a certain minimum re-sale price (MRP) as stated in the undertaking, as well as in the side letter attached to it.
- (5) In section 3.1 of the undertaking the companies undertook to ensure that the product concerned, after any direct or deferred discounts or rebates, credits or other benefits granted, whether directly or indirectly linked to a sale, on a CIF price level, is not sold below the MRP.
- (6) In section 3.10 of the undertaking, the companies undertook to calculate the MRP on 'cash' or equivalent payment terms, i.e. with zero credit granted to the customer. In accordance with the same section of the undertaking if the payment terms (specified on the Commercial Invoice or on the re-sale invoice, or as otherwise contractually agreed) differ from 'cash' or equivalent payment terms, then the price to be compared with the MRP should be reduced by 1 % for each additional month of credit granted on a pro-rata basis.
- (7) The terms of the undertaking also obliged the companies to provide the Commission with regular and detailed information, in the form of a quarterly report of its sales and re-sales of the product concerned to the European Community. Such reports should include the re-sale transactions of the products covered by the undertaking purchased from the related companies in the PRC, as well as those re-sale transactions of the product covered where the purchases were made from any other Chinese companies.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2117/2005 (OJ L 340, 23.12.2005, p. 17).

⁽²⁾ OJ L 199, 29.7.2005, p. 1. Regulation as last amended by Regulation (EC) No 426/2008 (OJ L 129, 17.5.2008, p. 1).

⁽³⁾ OJ L 47, 17.2.2006, p. 59.

- (8) In addition, and as stipulated in the undertaking, the companies undertook to consult with the European Commission regarding any difficulties which may arise during the implementation and subsequent application of the undertaking.
- (9) For the purpose of ensuring compliance with the undertaking, the companies also undertook to allow on-spot verification visits at its premises in order to verify the accuracy and veracity of data submitted in the said quarterly reports and to provide all information considered necessary by the Commission.

2. Results of the verification visit to Fundició Dúctil Benito

- (10) A verification visit was carried out at the premises of Fundició Dúctil Benito (the company) in Spain from 2 July 2007 until 3 July 2007. The verification visit covered the period from 1 April 2006 until 31 March 2007.
- (11) The verification visit established that in 13 transactions the MRP was not respected because the company issued credit notes concerning these transactions with no other underlying economic justification than to lower the re-sale price shown on the invoice. These transactions fall below the MRP by an average of 10 %.
- (12) During the verification visit the company stated that this could occur because its sales personnel was not aware that an MRP had to be respected for the re-sales of certain castings (namely the ones bought from its related Chinese producers).
- (13) Moreover, the MRP was not respected in a further 39 transactions as the company did not take into consideration that the MRP was calculated on 'cash or equivalent basis'; i.e. when it agreed on the payment terms for a particular transaction it did not increase its re-sale price compared to the MRP with 1 % for each additional month granted for payment. Therefore, the company failed to fulfil its obligation under section 3.10 of the undertaking. These transactions were on average 7 % below the MRP.
- (14) During the verification visit the company acknowledged that it was not aware of the fact that 'cash or equivalent basis' means maximum 10 days of payment terms. The company was erroneously considering it to be 30 days instead.

3. Reasons to withdraw the acceptance of the undertaking

- (15) The facts set out in recitals 9 and 11 led to the conclusion that the obligation of the company to

respect the MRP for all re-sale transactions of the product covered was not met.

- (16) For 13 transactions the company issued credit notes with no other economic justification but to lower the price shown on the invoice, which resulted in the re-sale price on average falling below the MRP by 10 %.
- (17) For a further 39 transactions, the MRP was not respected due to the company's failure to take due account of the calculation of the MRP on 'cash or equivalent basis'. The average re-sale price of these transactions falls 7 % below the MRP.

4. Written submissions and hearing

(a) Complexity of the undertaking

- (18) The company acknowledged during the on-spot verification that it did not report all the re-sales transactions of the product covered, but only those for which the products were purchased from the related companies.
- (19) The company argued in its written submission that certain reporting violations could occur because of the complexity of the undertaking text and because it did not receive any feedback on its reports from the Commission's services.
- (20) In respect of the reporting problems, it is pointed out that the company received clear instructions on how to report.
- (21) Moreover, the Commission's services always answered the company's questions regarding the implementation of the undertaking in a timely manner.
- (22) It should be further noted that it is not customary for the Commission's services to send out feedback on the quarterly reports to the companies unless certain problems are identified during the desk-analyses of the reports.
- (23) In this case, problems related to the MRP were first identified as a result of the quarterly report submitted on 15 April 2007 on which the company was consulted on 23 May 2007. These issues were examined during the verification visit carried out on 2-3 July 2007. During this verification visit, other reporting problems were also found which could only have been identified during an on-spot verification visit. The company was briefed immediately on this issue.

(b) *Proportionality*

- (24) With regard to the price violations, the company admitted that a price violation occurred on 52 occasions, but it claimed that this would be a minor portion of the total number of transactions in the period considered and that, in accordance with the principle of proportionality, the undertaking should not be withdrawn.
- (25) In response to these arguments, it should be pointed out that, in accordance with the undertaking, the company undertook to ensure that the re-sale price of all transactions covered by the undertaking shall be at or above the MRP set out in the undertaking.
- (26) Moreover, regarding the issue of proportionality, the basic Regulation contains no direct or indirect requirement that a breach of an undertaking must relate to a minimum percentage of sales.
- (27) This approach has also been confirmed by the jurisprudence of the Court of First Instance which has ruled that any breach of an undertaking is sufficient to justify the withdrawal of acceptance of an undertaking ⁽¹⁾.
- (28) Accordingly, the arguments presented by the company with regard to proportionality do not alter the Commission's view that a breach of the undertaking occurred and that the acceptance of the undertaking should be withdrawn.

(c) *Precedent invoked by the company*

- (29) The company also referred to a case where a new undertaking offer was accepted from a company from which the acceptance of its previous undertaking had been withdrawn as a consequence of violations ⁽²⁾.
- (30) In the case invoked as a precedent the company breached its original undertaking by failing to submit its undertaking report in due time. Later on, upon request of the company, an interim review was initiated and during the review the company could prove that it introduced new measures so that it could ensure that no further reporting breach of the undertaking would happen.
- (31) In this regard it has to be noted that the case the company is referring to as a precedent is not directly comparable as (i) the breach of the undertaking was formal in nature (i.e. late submission of the undertaking

report); and (ii) the Commission withdrew the undertaking and only accepted a new undertaking in the framework of an interim review at a later stage. The argument of the company is therefore dismissed.

(d) *Undertaking related practices of the company*

- (32) The company argued that during the verification visit, it voluntarily notified the Commission's officials that there were certain transactions which fell below the accepted MRP due to credit notes issued. However, firstly, this does not change the fact that violations occurred. Secondly, this notification happened only after the Commission's services had analysed the quarterly report submitted on the 15 April 2007 and as a result of the analysis, requested further information and thus drew the company's attention to the problem. Therefore, it was the Commission's services that drew the company's attention to the problem following a desk analysis of the quarterly reports submitted.
- (33) The company argued that at the time of submitting its regular reports to the Commission, the company felt that the reports were complete, exhaustive and correct in all particulars and that the company thought that the MRP was respected.
- (34) The company also emphasised that the management and the personnel responsible for reporting was not aware of the fact that the sales personnel issued credit notes which resulted in re-sales prices falling below the MRP.
- (35) During the hearings and the written submissions, the company informed the Commission that one salesman was responsible for these actions and that this person is not working for the company any more.
- (36) Moreover, it was submitted that the company implemented changes in order to correct the mistakes: a restrictive policy concerning the issuing of credit notes was applied, the re-sales prices were increased and the company updated its computerised system. Furthermore, the sales personnel were informed about the details of the undertaking.
- (37) Referring to the recitals above it must be noted that the fact that the management was not aware of any possible price violations and/or the activities of the sales personnel related to the undertaking does not exempt the company from respecting the obligations of the undertaking. Furthermore, the actions initiated to remedy the situation were introduced only after the Commission's services have drawn the company's attention to the problems. In light of the above, the repeated occurrence of the errors and the price violation caused by these activities warrants the withdrawal of the undertaking despite the actions taken after the on-spot verification visit.

⁽¹⁾ In this context, see case T-51/96 *Miwon v Council* (ECR 2000, p. II-1841) paragraph 52; case T-340/99 *Arne Mathisen S v Council* (ECR 2002, p. II-2905) paragraph 80.

⁽²⁾ *Gje-Vi AS*; Council Regulation (EC) No 322/2002 (OJ L 51, 22.2.2002, p. 1).

C. AMENDMENT OF DECISION 2006/109/EC

- (38) In view of the above, the acceptance of the undertaking offered by the Benito Group, including Fundició Dúctil Benito (Spain), Benito France, S.A.R.L, Zibo Benito Metalwork Co. Ltd, Benito (Tianjin) Metals Products Co. Ltd, and Qingdao Benito Metals Products Co. Ltd, should be withdrawn and Article 1 of Decision 2006/109/EC should be amended. Accordingly, the definitive anti-dumping duty imposed by Article 1(2) of Regulation (EC) No 1212/2005, under 'All other companies', should apply to the products manufactured by Zibo Benito Metalwork Co., Ltd, Benito (Tianjin) Metals Products Co. Ltd, and Qingdao Benito Metals Products Co. Ltd,

HAS DECIDED AS FOLLOWS:

Article 1

Acceptance of the undertaking in relation to re-sale of certain castings offered by the Benito Group, including Fundició Dúctil Benito (Spain), Benito France, S.A.R.L, Zibo Benito Metalwork Co. Ltd, Benito (Tianjin) Metals Products Co. Ltd, and Qingdao Benito Metals Products Co. Ltd, is hereby withdrawn.

Article 2

The table of Article 1 in Decision 2006/109/EC is replaced by the following table:

'Company	Taric Additional Code
Beijing Tongzhou Dadushe Foundry Factory, East of Dongtianyang Village, Dadushe, Tongzhou Beijing	A708
Botou City Simencun Town Bai Fo Tang Casting Factory, Bai Fo Tang Village, Si Men Cun Town, Bo Tou City, 062159, Hebei Province	A681
Botou City Wangwu Town Tianlong Casting Factory, Changle Village, Wangwu Town, Botou City, Hebei Province	A709
Changan Cast Limited Company of Yixian Hebei, Taiyuan main street, Yi County, Hebei Province, 074200	A683
Changsha Jinlong Foundry Industry Co., Ltd, 260, Jinchang Road, JinJing Town, Changsha, Hunan	A710
Changsha Lianhu Foundry, Lianhu Village, Yuhuating Town, Yuhua District, Changsha, Hunan	A711
Manufactured and sold by GB Metal Products Co., Ltd, Zhuanlu Town, Dingzhou, Hebei or manufactured by GB Metal Products Co., Ltd, Zhuanlu Town, Dingzhou, Hebei and sold by its related sales company GB International Trading Shanghai Co. Ltd, B301-310 Yin Hai Building, 250 Cao Xi Road, Shanghai	A712
Guiyang Bada Foundry Co., Ltd, Mengguan Huaxi Guiyang, Guizhou	A713
Hebei Jize Xian Ma Gang Cast Factory, Nankai District. Xiao Zhai Town, Jize County, Handan City, Hebei	A714
Manufactured and sold by Hebei Shunda Foundry Co. Ltd, Qufu Road, Quyang, 073100, PRC or manufactured by Hebei Shunda Foundry Co. Ltd, Qufu Road, Quyang, 073100, PRC and sold by its related sales company Success Cast Tech Ltd, 603A Huimei Business Centre 83 Guangzhou Dadao(s), Guangzhou 510300	A715
Hong Guang Handan Cast Foundry Co. Ltd, Nankai District, Xiao Zhai Town, Handou City, Jize County, Hebei	A716
Qingdao Qitao Casting Co. Ltd, Nan Wang Jia Zhuang Village, Da Xin Town, Jimo City, Qingdao, Shandong Province, 266200	A718

Company	Taric Additional Code
Shandong Huijin Stock Co. Ltd, North of Kouzhen Town, Laiwu City, Shandong Province, 271114	A684
Shahe City Fangyuan Casting Co. Ltd, West of Nango Village, Shiliting Town, Shahe City, Hebei Province	A719
Shanxi Yuansheng Casting and Forging Industrial Co. Ltd, No 8 DiZangAn, Taiyuan, Shanxi, 030002	A680
Tianjin Fu Xing Da Casting Co. Ltd, West of Nan Yang Cun Village, Jin Nan District, 300350, Tianjin	A720
Weifang Jianhua Casting Co. Ltd, Kai Yuan Jie Dao Office, Hanting District, Weifang City, Shandong Province	A721
Zibo City Boshan Guangyuan Casting Machinery Factory, Xiangyang Village, Badou Town, Boshan District, Zibo City Shandong Province	A722
Zibo Dehua Machinery Co. Ltd, North of Lanyan Street, Zibo High-tech Developing Zone	A723'

Article 3

This Decision shall take effect on the day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 11 June 2008.

For the Commission
Peter MANDELSON
Member of the Commission
